UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DELON SCRUGGS,

　　　　Plaintiff,

　　v.

FAIRVIEW HEIGHTS, ILLINOIS,
OFFICER BELBA, SEREANT PEEL and
NICK GAILIUS,

　　　　Defendants.

Case No. 13-cv-1088-JPG-DGW

MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation ("Report") (Doc. 18) of Magistrate Judge Philip M. Frazier recommending that the Court grant in part and deny in part the defendants' motion to dismiss (Doc. 5).

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* "If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error." *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire file and finds that the Report is not clearly erroneous. Accordingly, the Court hereby:

- **ADOPTS** the Report in its entirety (Doc. 18);

- **GRANTS in part** and **DENIES in part** the defendants' motion to dismiss (Doc. 5);

- **DISMISSES with prejudice** Scruggs' claim under 42 U.S.C. § 1983 for violation of his Eighth Amendment rights in connection with his arrest and detention on or around October 16, 2011;

- **DISMISSES without prejudice** Scruggs' claim under 42 U.S.C. § 1983 for violation of his Fourteenth Amendment due process rights in connection with his arrest and detention on or around October 16, 2011; and

- **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of the case.

Scruggs' Fourth Amendment and Fourteenth Amendment equal protection claims against

defendants Belba and Peel, in their individual capacities, and against Fairview Heights and

Gailius, in his official capacity, remain in this case.

IT IS SO ORDERED.
DATED: March 20, 2014

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s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE

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